

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Raghavender Mallannagari,)	
Plaintiff,)	
)	No. 09 CV 1352
v.)	
)	Judge Andersen
GSS America, Inc., Bhargav Marepally,)	Magistrate Judge Schenkier
Parul Patel, Tsvetimira Boeva, and)	
Richard Capalby)	Jury Trial Demanded
Defendants.)	

**DEFENDANT GSS AMERICA, INC.’S MOTION TO DISMISS COUNTS I, II AND VI
OF PLAINTIFF’S COMPLAINT PURSUANT TO FEDERAL RULES
OF CIVIL PROCEDURE 12(b)(6) AND 9(b)**

NOW COMES Defendant GSS AMERICA, INC. (hereafter “GSS”), by and through its attorneys, Anthony Pinelli and Jon Godoy, and respectfully requests this Honorable Court to dismiss Count I, II and VI of Plaintiff’s complaint for the following reasons:

1. Count I of Plaintiff’s complaint alleges RICO violations under 18 U.S.C. §1961 *et seq.* The factual allegations of Count I are deficient as they fail to allege the existence of an enterprise, actions by separate persons as defined by §1961(c) or a pattern of racketeering activity. The complaint does not sufficiently define an enterprise distinct from the individual defendants described as persons and attempts to portray GSS as both the required enterprise and a defendant.

2. Count II of Plaintiff’s complaint alleges a violation of 18 U.S.C. 1581- 1595, (“Peonage, slavery and trafficking in persons”). Count II fails to describe acts by GSS which may be determined to be violations of the cited statute.

3. Count VI of Plaintiff’s complaint alleges fraud under Illinois common law.

4. Counts III, IV and V allege violations of 820 ILCS 115/1 *et seq.* (“Illinois Wage Payment and Collection Act”), 820 ILCS 105/1 *et seq.* (“Illinois Minimum Wage Law”) and 29 U.S.C. 201 *et seq.* (“Fair Labor Standards Act”) respectively. GSS has answered those Counts.

5. The factual allegations of Count I fail to allege the requisite pattern of racketeering activity in violation of RICO.

6. The factual allegations of Count II fail to allege any act which constitutes trafficking with respect to peonage, slavery, involuntary servitude or forced labor, and thus fail to allege a cause of action under the civil statute.

7. Count VI fails to plead fraud with the specificity required by Federal Rule of Civil Procedure 9(b) and should be dismissed.

8. Counts I, II and VI consist of formulaic citations of statutes and legal citations insufficient to outline a claim for relief based on anything more than speculation.

WHEREFORE, Defendant GSS America, Inc. respectfully requests this Honorable Court to dismiss Counts I, II and VI of Plaintiff's complaint pursuant to Federal Rules of Civil Procedure 12(b)(6) and 9(b).

Respectfully submitted,

s/Anthony Pinelli
ANTHONY PINELLI
One of the Attorneys for
Defendant GSS America, Inc.

ANTHONY PINELLI
Law Office of Anthony Pinelli
53 West Jackson Blvd., Suite 1460
Chicago, Illinois 60604
312/583-9270

JON GODOY
Akula and Associates P.C.
1303 W, Walnut Hill Lane, Suite 225
Irving, Texas 75038
972/241-4698
(Pro hac vice to be submitted)